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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 HARRY WILLIAM O'NEAL,

9 Petitioner,

10 v.

11 MIKE KENNEY,

12 Respondent.

No. C08-5490BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation of the  
14 Honorable J. Kelley Arnold, United States Magistrate Judge (Dkt. 8). The Court having  
15 considered the Report and Recommendation, Petitioner's voluntary dismissal (Dkt. 7), and  
16 the remaining record, does hereby find and order:

- 17 (1) The Court adopts the Report and Recommendation; and  
18 (2) This action is **DISMISSED WITHOUT PREJUDICE**.

19 DATED this 3<sup>rd</sup> day of November, 2008.  
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23 BENJAMIN H. SETTLE  
24 United States District Judge  
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28 ORDER